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EXAMINER

SQUIRES, ELIZA A

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. The Amendment filed 10 December 2008 has been entered. Claim 20 has been added. claims 1-20 remain pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 1-12 and 19** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The term "appropriate reserves" in **claim 1** is a relative term which renders the claim indefinite. The term "appropriate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Dependant **claims 2-12** fail to correct this deficiency and are rejected for the same reasons.

- b. **Claim 19** is rejected as it has two separate embodiments for a step of "taking action" in one it takes preventative steps to prevent events of the type identified in a second it establishes appropriate reserves. It is unclear if both actions are required i.e. does it require statistical analysis to establish appropriate reserves? One of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. **Claims 1-2 and 11-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over “Operational Risk Data Collection Exercise – 2002” by Basel Committee on Banking Supervision hereinafter referred to as *Basel* in view of U.S. Patent No. 6,148,297 to *Swor et al.*

6. **As to claim 1**, *Basel* discloses a method of doing business subject to a risk event comprising the steps of:

providing a predetermined number of predetermined questions to solicit answers that define attributes of the risk event (*Basel* page 5 and 6 [eg. Blocks 1,2, and 3 on page 5] wherein a predetermined number of questions is 12, as numbered, and the predetermined questions are as listed);

Where the answered are:

1) store the answers in the form of the attributes of the risk event (*Basel* page 5 and 6 [where yes or no, i.e. “is the sum of the losses above the threshold amount: yes” is an attribute of the risk event),

2) map each answer to a list of possible event types corresponding to each said answer, thereby generating a mapped list for each said answer (*Basel* pages 5 and 6 [i.e. the answer to “Did the primary event adversely change the economic results of the firm and was it recognized per GAAP?=yes” then the , and the possible event types would be available by following the tree diagram, for the example Business/Strategic Event,

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Employment and Workplace Safety Event, External Fraud etc. would be mapped to the answer),

3) compare the mapped lists to determine an event type of the risk event (*Basel* page 5 and 6 [eg. Blocks 1,2, 3 on page 5]); and

taking action based on the determined event type, wherein said taking action comprises establishing appropriate reserves to protect against future risk events (*Basel* page 2 last paragraph).

However, *Basel* does not disclose that a computer is programmed. *Swor* discloses a computer system that performs a risk assessment (*Swor* abstract and column 1 and 2 particularly column 2 lines 55-64).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the query and assignment system of *Basel* with the computerized system of *Swor* to reduce potential entry error and allow for improved database management.

7. **As to claim 2**, see the discussion of claim 1, additionally, *Swor* discloses the method wherein the computer is programmed to provide a user interface for providing the questions to an event reporter (*Swor* figures 6A-D, column 2 lines 65-67 and column 3 lines 1-10, and column 5 lines 64-67 and column 6 lines 1-5 where a "user who has experienced an accident" is an event reporter), and for receiving the answers to the questions from the event reporter (*Swor* column 6 lines 9-64 and column 6 lines 1-5 where a "user who has experienced an accident" is an event reporter), wherein each of the questions have only one answer that can be selected from a list of answers for the question (*Swor* column 6 lines 9-64 and figures 6A-D), and wherein the selected

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answer becomes an attribute assigned to the risk event being reported (*Swor* column 6 lines 9-64 and figures 6A-D).

8. **As to claim 11**, see the discussion of claim 1, additionally, *Basel* further discloses the method wherein the computer is programmed to map each answer to a list of possible event types that include one or more of the following event types: theft/fraud (*Basel* page 6), personal safety (*Basel* page 6), system failure (*Basel* page 6).-

9. **As to claim 12**, see the discussion of claim 1, additionally, *Basel* further discloses the method wherein the risk event comprises one of the events selected from the group consisting of third party fraud (*Basel* page 6), employee fraud (*Basel* page 6), natural disaster (*Basel* page 4), physical injury (*Basel* page 6).

10. **As to claim 13**, *Basel* discloses a method of categorizing a risk event comprising the steps of:

providing a predetermined number of predetermined questions to solicit answers that define attributes of the risk event (*Basel* page 5 and 6 [eg. Blocks 1,2, and 3 on page 5] wherein a predetermined number of questions is 12, as numbered, and the predetermined questions are as listed);

obtaining the answers to the questions (*Basel* page 5 and 6 [i.e. yes or no]);

where the user:

- 1) stores the answers in the form of the attributes of the risk event (*Basel* page 5 and 6 [where yes or no, i.e. "Is the sum of the losses above the threshold amount: yes" is an attribute of the risk event),

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- 2) maps each answer to a list of possible event types, thereby generating a mapped list for each answer (*Basel* page 5 and 6, [i.e. the answer to "Did the primary event adversely change the economic results of the firm and was it recognized per GAAP?=yes" then the list of the possible event types would be available by following the tree diagram, for the example Business/Strategic Event, Employment and Workplace Safety Event, External Fraud etc. would be mapped to the answer), and
- 3) compares all of the mapped lists to determine an event type of the risk event (*Basel* page 5 and 6 [i.e. blocks 1, 2, 3 on page 5).

However, *Basel* does not disclose that a computer is programmed or that an event type is displayed. *Swor* discloses a computer system that performs a risk assessment (*Swor* abstract and column 1 and 2 particularly column 2 lines 55-64) and displaying the event type (*Swor* figure 6A-D and column 6 lines 45-50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the query and assignment system of *Basel* with the computerized system of *Swor* to reduce potential entry error and allow for improved database management.

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12. **Claims 3, 6-9, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Basel* in view of *Swor et al.* in further view of “Categorizing Risks for Risk Ranking” by *Morgan et al.*

13. **As to claim 3**, see the discussion of claim 1, however, the references do not explicitly teach the questions regard who or what initiated the event, what was the benefit to the initiator, who or what was impacted by the event, the nature of the impact and the initiator’s role.

Morgan discloses the method wherein the computer is programmed to store the answers in the form of attributes of the event including, who or what initiated the event (*Morgan* figure 1, where what initiated the event is "human activities"), what was the benefit to said who or what initiated the event (*Morgan* page 56 paragraph 1), who or what was impacted by the event (*Morgan* figure 1 where what was impacted is “exposure”), the nature of the impact (*Morgan* figure 1 where the nature of the impact is "effects"), and role of who or what initiated the event (*Morgan* figure 1 where the initiator is "loading or initiator" and "effects" is its role).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the query and assignment system of *Basel* and the computerized system of *Swor* with the questions of *Morgan* since the use of these questions would improve the ease of communication for users removing room for interpretation when defining a risk event.

14. **As to claim 6**, see the discussion of claim 1, additionally, *Morgan* further discloses the method wherein the step of providing questions further comprises providing a question regarding who or what initiated the event (*Morgan* figure 1, where what initiated the event is "human activities").

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15. **As to claim 7**, see the discussion of claim 1, additionally, *Morgan* further discloses the method wherein the step of providing questions further comprises providing a question regarding what was the benefit to the initiator (*Morgan* page 56 paragraph 1).

16. **As to claim 8**, see the discussion of claim 1, additionally, *Morgan* further discloses The method of claim 1 wherein the step of providing questions further comprises providing a question regarding who or what was impacted (*Morgan* figure 1 where what was impacted is “exposure”).

17. **As to claim 9**, see the discussion of claim 1, additionally, *Morgan* further discloses the method wherein the step of providing questions further comprises providing a question regarding the nature of the impact of the event (*Morgan* figure 1 where the nature of the impact is "effects").

18. **As to claim 20**, *Basel* discloses a method of doing business subject to a risk event comprising the steps of:

providing a predetermined number of predetermined questions to solicit answers that define attributes of the risk event (*Basel* page 5 and 6 [eg. Blocks 1,2, and 3 on page 5] wherein a predetermined number of questions is 12, as numbered, and the predetermined questions are as listed); obtaining the answers to the questions;

Where the answered are:

1) store the answers in the form of the attributes of the risk event(*Basel* page 5 and 6 [where yes or no, i.e. “is the sum of the losses above the threshold amount: yes” is an attribute of the risk event),

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2) map each answer to a list of possible event types corresponding to each said answer, thereby generating a mapped list for each said answer (*Basel* pages 5 and 6 [i.e. the answer to “Did the primary event adversely change the economic results of the firm and was it recognized per GAAP?=yes” then the , and the possible event types would be available by following the tree diagram, for the example Business/Strategic Event, Employment and Workplace Safety Event, External Fraud etc. would be mapped to the answer), and

3) compare the mapped lists to determine an event type of the risk event (*Basel* page 5 and 6 [eg. Blocks 1,2, 3 on page 5]);and
taking action based on the determined event type, wherein said taking action comprises establishing appropriate reserves to protect against future risk events (*Basel* page 2 last paragraph).

wherein the taking action comprises taking action based on a statistical analysis of past typed events, including the risk event, and wherein the taking action comprises taking preventive steps to reduce events of the event type (*Basel* page 2 last paragraph); and

However *Basel* does not provide for a computer. *Swor* discloses;

wherein the computer is programmed to provide a user interface for providing the questions to an event reporter, and for receiving the answers to the questions from the event reporter, wherein each of the questions have only one answer that can be selected from a list of answers for the question, and wherein the selected answer becomes an attribute assigned to the risk event being reported (*Swor* figures 6A-D, column 2 lines 65-67 and column 3 lines 1-10, and column 5 lines 64-67 and column 6 lines 9-64 where a "user who has experienced an accident" is

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an event reporter and wherein a question has a yes or no answer only one answer can be selected from a list).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the query and assignment system of *Basel* with the computerized system of *Swor* to reduce potential entry error and allow for improved database management.

However, the references do not explicitly teach the questions regard who or what initiated the event, what was the benefit to the initiator, who or what was impacted by the event, the nature of the impact and the initiator's role.

Morgan discloses the method wherein the computer is programmed to store the answers in the form of attributes of the event including and provides questions for, who or what initiated the event (*Morgan* figure 1, where what initiated the event is "human activities"), what was the benefit to said who or what initiated the event (*Morgan* page 56 paragraph 1), who or what was impacted by the event (*Morgan* figure 1 where what was impacted is "exposure"), the nature of the impact (*Morgan* figure 1 where the nature of the impact is "effects"), and role of who or what initiated the event (*Morgan* figure 1 where the initiator is "loading or initiator" and "effects" is its role).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the query and assignment system of *Basel* and the computerized system of *Swor* with the questions of *Morgan* since the use of these questions would improve the ease of communication for users removing room for interpretation when defining a risk event.

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19. **Claims 4 and 5** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Basel* in view of *Swor et al.* in further view of “Corrective and Preventive Action” by *Motschman et al.*

20. **As to claim 4**, see the discussion of claim 1, however, the references do not explicitly teach taking action based on an analysis. *Motshman* discloses the method wherein the taking action comprises taking action based on a statistical analysis of past typed events, including the risk event (*Motshman* Section 5 Event Classification, Section 12 Identifying Solutions).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the query and assignment system of *Basel* and the computerized system of *Swor* with the actions of *Motshman* since in order to correct defects in the system and prevent future risks.

21. **As to claim 5**, see the discussion of claim 1, however, the references do not explicitly teach taking preventive steps. *Motshman* discloses the method wherein the taking action comprises taking preventive steps to reduce events of the event type (*Motshman* abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the query and assignment system of *Basel* and the computerized system of *Swor* with the actions of *Motshman* since in order to correct defects in the system and prevent future risks.

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22. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Basel* in view of *Swor et al.*, *Morgan*, and "RN and LPN Accountabilities and Responsibilities" by *Ottem*.

23. **As to claim 10**, see the discussion of claim 1, additionally, *Swor* discloses the method wherein the step of providing questions further comprises providing a question regarding the initiator's role in the event (*Swor* figure 6A1).

However the references do not explicitly disclose that the question further concerns a level of responsibility and legal duty in the event. Yet, it would be understood that each position designated by *Swor* such as a RN, LPN, etc. would have a defined and level of responsibility and legal duty. This is disclosed by *Ottem* (*Ottem* Standards for Nursing Practice Section).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the query and assignment system of *Basel*, the computerized system of *Swor*, the questions of *Morgan*, with the definitions of responsibility and legal duty since these definitions allow employees to improve their performance of their jobs by preventing legal liability and performing only work designated to them.

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24. **Claims 14-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Swor et al.* in view of “How to Play Twenty Questions with Nature and Win” by *Richards*.

25. **As to claim 14**, *Swor* discloses a system for typing risk events comprising:

a computer programmed for event typing (abstract and column 1 and 2 particularly column 2 lines 55-64; figure 6A-D and column 6 lines 45-50);

a user interface for posing a predetermined number of predetermined questions regarding an event to an event reporter (*Swor* figures 6A-D, column 2 lines 65-67 and column 3 lines 1-10, and column 5 lines 64-67 and column 6 lines 1-5 where a "user who has experienced an accident" is an event reporter and a predetermined number of predetermined questions is figure 6 wherein the predetermined questions are as shown in the figure and the number is as shown), and for receiving responses to the questions from the event reporter (*Swor* column 6 lines 9-64 and column 6 lines 1-5 where a "user who has experienced an accident" is an event reporter), each of the questions having only one answer that can be selected from a list of answers for the question (*Swor* column 6 lines 9-64 and figures 6A-D), wherein the selected answer becomes an attribute assigned to the event being reported (*Swor* column 6 lines 9-64 and figures 6A-D).;

and a user of the system takes an action based on the event type presented by the system (*Swor* figure 6A-D).

However, *Swor* does not explicitly teach the use of look-up tables. *Richards* discloses a look up table to generate a list of mapped possible event types for each answer (*Richards* page 4, 2nd paragraph, page 5, figure 4, and page 7) wherein one or more characteristics are selected that are common to the lists of mapped possible characteristics (*Richards* pages 7, 16, 17, and 18).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the risk event typer of *Swor* with the use of look up tables of *Richards* since the use of Boolean algebra to narrow a list automates finding a determination of an unknown subject definition in order to reduce user error and uniformly creates definitions even with the use of multiple users.

26. **As to claim 15**, see the discussion of claim 14, additionally, *Swor* discloses the system further comprising a non-volatile memory (*Swor* column 3 lines 1-10).

27. **As to claim 16**, see the discussion of claims 14 and 15, additionally, *Swor* further discloses the system wherein the memory records the attributes associated with the event (*Swor* figures 6A-D and column 3 lines 11-26).

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28. **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Swor et al.* in view *Richards*, as applied to claims 14-15, and further in view of *Motschman*.

29. **As to claim 17**, see the discussion of claims 14 and 15, additionally, *Swor* further discloses the system wherein the memory records events and attributes (*Swor* figures 6A-D and column 3 lines 11-26).

However, the references do not explicitly teach recording statistics regarding recorded event types. *Motschman* discloses recording statistics regarding recorded event types (*Motschman* Section 5 Event Classification, Section 12 Identifying Solutions).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the risk event typer of *Swor* and the list handling of *Richards* with the statistics of *Motshman* since the use of these questions would improve the ease of communication for users removing room for interpretation when defining a risk event.

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30. **Claim 18** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Swor et al.* in view *Richards* and *Morgan*.

31. **As to claim 18**, see the discussion of claim 14, however the references do not explicitly teach the questions regard who or what initiated the event, what was the benefit to the initiator, who or what was impacted by the event, the nature of the impact, and the initiator's role.

Morgan discloses the system wherein the questions comprise one or more questions regarding the event selected from the group of questions consisting of: who initiated the event (*Morgan* figure 1, where what initiated the event is "human activities"), what was the benefit to the initiator (*Morgan* page 56 paragraph 1), who was impacted (*Morgan* figure 1 where what was impacted is "exposure"), what was the damage to the impacted party (*Morgan* figure 1 where the damage to the impacted party is "effects"), and what was the initiator's role / responsibility regarding the impacted party (*Morgan* figure 1 where the initiator is "loading or initiator" and "effects" is its role).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Swor* and *Richards* with the questions of *Morgan* since the use of these questions would improve the ease of communication for users removing room for interpretation when defining a risk event.

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32. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Swor et al.* in view *Richards* in further view of *Basel*.

33. **As to claim 19**, see the discussion of claim 14, however, the references do not explicitly teach that the event types apply to a corporate environment. *Basel* discloses the system wherein the possible event types for each answer comprise one or more event types selected from the group of event types consisting of: personal safety (*Basel* page 6), system failure (*Basel* page 6).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Swor* and *Richards* with *Basel* in order to report risk and mitigation and to ensure safer operation for employees and the public.

Response to Arguments

34. Applicant's arguments filed 10 December 2008 have been fully considered but they are not persuasive.

35. The objection to the specification has been withdrawn in light of Applicant's amendment to the title.

36. The objection to the claims has been withdrawn in light of Applicant's amendment to claim 12.

37. The rejections under 35 U.S.C 112 of the first office action of 10 September 2008 has been withdrawn, however, new rejections have been made necessitated by Applicant's amendment as cited above.

38. Regarding the rejection under 35 U.S.C 103 Applicant argues on pages 9 and 10 that the references *Basel* and *Swor* as relied upon in the rejection of the independent claim 1 and similarly independent claims 13 and 14 do not teach or render obvious offering "a predetermined number of predetermined questions" to a user as included in an amendment to these independent claims and the newly added claim 20. Specifically, Applicant contends that the flowchart as shown by *Basel* does not demonstrate this feature as "in stepping through the *Basel* flowchart, what subsequent question is asked is not determined or known until the answer to a previous question is received".

39. However, as applicant has not offered a special definition to the term "predetermine", the common meaning as taught by Webster's II Dictionary Third Edition, "to determine in advance" is used. From a systematic view of the *Basil* reference, the questions and number of questions are indeed determined ("to decide or settle authoritatively or conclusively" *id.*) in advance, in fact,

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the exact number of questions (12) are listed on the document and as well as their respective questions. The system of *Basel* does not generate any questions, as all are known and presented on the flowchart. Similarly, *Swor* has a similar line of limited questions, as presented in figure 6, which from a systematic viewpoint (only X number of questions are programmed into a computer in advance) can be asked to a user.

The rejections are maintained.

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Conclusion

40. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

41. The following references discuss a predetermined number of predetermined questions:

- a. U.S. Patent 6,456,981 to *Dejaer et al.*
- b. U.S. Patent 6,752,396 to *Smith*

42. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliza Squires whose telephone number is (571)270-7052. The examiner can normally be reached on Monday through Friday 8 am - 4 pm Eastern Standard Time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. S./

Examiner, Art Unit 3626

1/16/09

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626